

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
CHEROKEE BAY PARK COMMUNITY
CLUB,

Appellant,

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY, and
KING COUNTY WATER DISTRICT
NO. 94,

Respondents.

PCHB No. 81-89

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal from the approval of a groundwater permit application, came before the Pollution Control Hearings Board, Nat W. Washington, Chairman, and David Akana (presiding), at a formal hearing in Tacoma, Washington, on July 24, 1981.

Appellant was represented by its general manager, Kenneth J. White and its consulting engineer, Mortimer H. Thomas; respondent King County Water District No. 94 was represented by its consulting

1 engineer, Duane Huskey; respondent Department of Ecology was
2 represented by Charles K. Douthwaite, Assistant Attorney General.

3 Having heard the testimony, having examined the exhibits, and
4 having considered the contentions of the parties, the Board makes these

5 FINDINGS OF FACT

6 I

7 Respondent King County Water District No. 94 (hereinafter
8 "District") was formed in the 1950's to provide water service to
9 portions of Sections 28 and 29, Township 22, Range 6 EWM in King
10 County, Washington. The District has provided water to individual
11 services and wholesale customers during the period of its inception up
12 to the present time. One of its wholesale customers is the Cherokee
13 Bay Park, which is a private subdivision containing about 900 platted
14 lots. The subdivision is not within the geographic boundaries of the
15 District. The subdivision has a separately owned water distribution
16 system to residences within the plat.

17 Appellant Cherokee Bay Park Community Club (hereinafter "Club") is
18 an association that secures water for the subdivision.

19 II

20 In the 1950's, the District drilled a well under permit that
21 yielded about 300 gallons per minute (gpm). Because less water was
22 used than applied for, a certificate of water right for a maximum of
23 80 gpm was issued. About half the demand for water came from the
24 subdivision.

25 III

26 Development increased in the subdivision after the installation of
27

1 sanitary sewers in 1977. Water connections in the subdivision
2 increased from about 80 homes to about 275 homes. During the period
3 of growth, the total demand on the District's well exceeded its
4 capacity to provide the water. In 1979, as an emergency measure, a
5 300 gpm pump was installed on the District's well which eased the
6 water shortage. Presently, about 250 gpm of water is normally
7 withdrawn. This rate of withdrawal exceeds the amount authorized in
8 the District's existing water right certificate.

9 IV

10 On January 25, 1980, appellant Club filed an application to
11 appropriate groundwater from three wells to serve 910 residences.
12 After investigation, respondent DOE issued a permit authorizing the
13 appropriation of 500 gpm and 285.4 acre-feet per year groundwater for
14 that use.

15 V

16 On March 17, 1980, respondent District filed an application to
17 appropriate an additional 220 gpm from its existing well to serve 250
18 homes. The application would allow the District to conform its
19 appropriations to its authorizations. After investigation, respondent
20 DOE issued a permit for 220 gpm and 125 acre-feet per year of water
21 supplemental to the existing authorization. Appellant Club appealed
22 this issuance of the District's permit.

23 VI

24 On July 21, 1980, appellant Club filed an application which sought
25 an additional 160 gpm and 28.2 acre-feet per year of groundwater to
26 supplement its original permit. The application would enable the Club
27

1 to meet certain state and local water service criteria based on
2 supplying the Cherokee Bay Park subdivision. The Club had earlier
3 sought to meet these criteria through an intertie with the District's
4 system but was unable to do so.

5 VII

6 Appellant Club has caused studies to be conducted and a well to be
7 drilled and tested. No other development has occurred under
8 authorization of the permit issued to it, and no water is yet
9 available to the subdivision as a result of the present development.
10 In addition to the three wells, the water system requires a reservoir,
11 a booster station, and a distribution system. The Club estimates that
12 the total system will require a financing commitment of \$374,000. It
13 is hopeful that such financing will be forthcoming and that the system
14 will be completed by the end of this year. When the system is
15 installed and operating, the Club will not require any water from the
16 District's system.

17 VIII

18 The additional quantity and rate of withdrawal sought by the
19 District is available for appropriation. No existing right will be
20 impaired by the proposed appropriation.

21 IX

22 Any Conclusion of Law which should be deemed a Finding of Fact is
23 hereby adopted as such.

24 From these Findings, the Board comes to these
25

1 CONCLUSIONS OF LAW

2 I

3 The criteria for issuance of a groundwater permit are set forth in
4 RCW 90.44.060 and RCW 90.44.070. The provisions require DOE to
5 determine: (1) what water, if any, is available; (2) to what
6 beneficial uses the water is to be applied; (3) will the appropriation
7 impair existing rights; (4) will the appropriation detrimentally
8 affect the public welfare; and (5) will the appropriation exceed the
9 capacity of the aquifer to yield water within a reasonable or
10 feasible pumping lift.

11 II

12 Appellant's only contention is that the District will not need the
13 additional 220 gpm requested because the Club will develop its own
14 separate system; the District's water demand, based upon Club use, is
15 overstated to that extent.

16 The evidence shows that the District normally uses 250 gpm at the
17 present time. While such withdrawal rate is largely due to the Club's
18 usage, restriction of the proposed appropriation to the terms of the
19 District's certificate of water right would leave present Club users
20 without water--at least until the Club's system is installed. This
21 result underscores the District's actual need to appropriate
22 additional water. If the District cannot show full appropriation of
23 the permit amount at the time for certification of its water right,
24 the amounts will be reduced to reflect actual use.

25 III

26 Appellant did not show that the action by DOE was erroneous.
27 Accordingly, the decision to issue a permit should be affirmed.

IV

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions, the Board enters this

ORDER

The issuance of permit No. G1-23579 to King County Water District No. 94 by the Department of Ecology is affirmed.

DONE this 17th day of August, 1981.

POLLUTION CONTROL HEARINGS BOARD

Nat W. Washington
NAT W. WASHINGTON, Chairman

David Akana
DAVID AKANA, Member

(did not participate)
GAYLE ROTHROCK, Member